

IN THE MISSOURI COURT OF APPEALS WESTERN DISTRICT

COMPLETE TITLE OF CASE

STATE OF MISSOURI,

Appellant,

v.

OZIE BANKS,

Respondent.

DOCKET NUMBER WD77126

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: April 7, 2015

APPEAL FROM

The Circuit Court of Jackson County, Missouri
The Honorable John M. Torrence, Judge

JUDGES

Division Two: Gabbert, P.J., and Ellis and Mitchell, JJ.

CONCURRING.

ATTORNEYS

Chris Koster, Attorney General
Jennifer A. Rodewald, Assistant Attorney General
Jefferson City, MO

Attorneys for Appellant,

Susan L. Hogan, Appellate Defender
Kansas City, MO

Attorney for Respondent.



MISSOURI APPELLATE COURT OPINION SUMMARY MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI,)
)
Appellant,)
v.) **OPINION FILED:**
) **April 7, 2015**
OZIE BANKS,)
)
Respondent.)

WD77126

Jackson County

Before Division Two Judges: Anthony Rex Gabbert, Presiding Judge, and Joseph M. Ellis and Karen King Mitchell, Judges

The State of Missouri brings this interlocutory appeal, challenging the trial court's dismissal of Counts II-VI of the indictment against Ozie Banks. The trial court determined that, under the terms of a prior plea agreement between the State and Banks, the State was precluded from pursuing these counts in accordance with its previous promise "not to file any other cases for which Mr. Banks may have been a suspect in this series of offenses." Because the court's finding that Counts II-VI came within the terms of the prior plea agreement was supported by the evidence, the court did not err in determining that the State was precluded from filing the charges.

AFFIRMED.

Division Two holds:

1. A criminal defendant, seeking dismissal of charges pursuant to a prior plea agreement, bears the burden of demonstrating that the new charges fall within the terms of the prior plea agreement.
2. Banks' prior plea agreement precludes the State from seeking new charges if: (1) any of the new charges were part of the same "series of offenses" as the charges to which Banks pled guilty in 1991; and (2) Banks was a "known suspect" in any of the new charges at the time of his 1991 plea proceeding.

3. Here, the State challenges whether Banks was a “known suspect” in the crimes charged in Counts II-VI at the time of the 1991 plea proceedings. But, the State conceded that Banks was a known suspect in the crimes charged in Counts VII-IX at the time of his 1991 plea proceeding. Because of numerous similarities between that case involved in Counts VII-IX and the other cases involved in Counts II-VI, it was reasonable for the court to believe that Banks was a known suspect in all of them. The State did not refute this reasonable inference below; thus, the trial court’s reliance upon it was not error.

Opinion by: Karen King Mitchell, Judge

April 7, 2015

* * * * *

THIS SUMMARY IS **UNOFFICIAL** AND SHOULD NOT BE QUOTED OR CITED.